



REPORT TO COUNCIL

Council Meeting: March 15, 2022

500 Matterson Drive, Ucluelet, BC V0R 3A0

FROM: BRUCE GREIG, DIRECTOR OF COMMUNITY PLANNING **FILE NO:** 3360-20-RZ17-04

SUBJECT: ZONING AMENDMENT APPLICATION **REPORT NO:** 22-29
PACIFIC RIM CHARTERS & GUEST LODGE (354 FORBES ROAD)

Attachment(s): APPENDIX A – UCLUELET ZONING AMENDMENT BYLAW NO. 1303, 2022
APPENDIX B – UCLUELET HOUSING AGREEMENT BYLAW NO. 1249, 2019
APPENDIX C – S.219 COVENANT
APPENDIX D – STAFF REPORT OCTOBER 9, 2018
APPENDIX E – STAFF REPORT APRIL 9, 2019
APPENDIX F – NOTES ON LANDSCAPE PLAN

RECOMMENDATION(S):

Staff are not making a recommendation in this case. Council may consider options A and B as presented below.

BACKGROUND:

Council received a report on the past uses and request to rezone the property at 354 Forbes Road at its October 9, 2018, meeting. The background on the application is found in the staff report presented at that meeting (see **Appendix D**). Following discussion, Council passed the following motion:

“THAT Council indicate support for the concept of adding 12 commercial tourist accommodation rooms and a minimum of 6 staff housing units as permitted uses on the property at 354 Forbes Road and:

- a. indicate to the applicant that detailed building, site, and landscape plans are required to show the impact of the proposal on the surrounding industrial lands, public streetscape and park land;*
- b. indicate that adoption of a zoning amendment bylaw would be subject to the following:*
 - i. the owners first obtaining a building permit, then completing the necessary building renovations to bring the building up to code and finally obtaining an occupancy permit to clarify that the building is safe for its intended use;*
 - ii. the owners entering into a Housing Agreement to ensure that the employee housing units are occupied by seasonal or long-term resident workers;*
 - iii. to owners providing a restrictive covenant to ensure the provision of staff housing and that occupancy of the guest accommodation units is tied to the ongoing operation of a fishing guide business from the property; and,*
- c. once a complete set of rezoning plans has been submitted by the owners, direct staff to prepare the zoning amendment and housing agreement bylaws for consideration by Council at a future meeting.”*

The owners of Pacific Rim Charters, Glenn and Dianna Kaczmar, subsequently submitted the necessary plans prepared under the guidance of their architect. Accordingly, staff drafted *Ucluelet Zoning Amendment Bylaw No. 1248, 2019* (“Bylaw No. 1248”) and *Ucluelet Housing Agreement Bylaw No. 1249, 2019* (“Bylaw No. 1249”) for Council consideration (see **Appendix E**). On April 9, 2019, Council then passed the following:

“THAT Council, with regard to the proposal to renovate the building on Lot 17, District Lot 281, Clayoquot District, Plan VIP76147 (354 Forbes Road) and request for zoning amendments to permit commercial tourist accommodation on the property:

- a. give first and second readings to Ucluelet Zoning Amendment Bylaw No. 1248, 2019;*
- b. give first and second readings to Ucluelet Housing Agreement Bylaw No. 1249, 2019;*
- c. indicate support, subject to public comment, to issue a Development Variance Permit to vary the following aspects of the Eco-Industrial Park (CD-1) zoning regulations for the existing building:*
 - i. reduce the side yard setback per CD-1.6.1(3) on the south side from a minimum of 5m to 1.22m;*
 - ii. reduce the rear yard setback per CD-1.6.1(3) from a minimum of 6m to 4.05m;*
 - iii. reduce the parking setback per 503.2(1) from a minimum of 3m to 1.5m, subject to the owner installing the proposed landscaped screening within the reduced setback area;*
 - iv. increase the permitted building height per CD-1.5.1(4) from a maximum of 12m to 12.95m; and,*
 - v. waive the requirement per 602.1(1) for screening of waste and recycling bins, located at the rear of the building;*
- d. direct staff to give notice of a public hearing to receive comment on the requested bylaws and Development Variance Permit.”*

Notification was given and a public hearing was held on April 30, 2019. At its regular meeting held May 14, 2019, Council gave third reading to Bylaw No. 1248 and Bylaw No. 1249. At that meeting Council also authorized issuance of Development Variance Permit 3090-20-DVP19-03.

In June of 2019 the owners applied for a building permit to undertake the renovations identified by their architect as necessary to bring the building into compliance - meeting the minimum health and safety standards of the building code for the intended use.

On December 21, 2021, the owners obtained a provisional occupancy permit for the building, conditional on the following:

1. Fire department access must be maintained to the building at all times to the satisfaction of the Fire Inspector.
2. All areas on the Architectural drawing dated December 18, 2021, noted as having no occupancy and not permitted to be used for storage are to remain empty and clear from all combustible materials.
3. The building is to be used only in accordance with the phasing plan approved by the Professional of Record.

DISCUSSION:

A few items are outstanding which, back in 2018, were expected to be completed prior to the rezoning bylaw being adopted. These items are discussed below.

RESTRICTIVE COVENANT:

The Owners have signed the restrictive covenant (see **Appendix C**), but the covenant has not been registered on the title of the subject property. The Owners have indicated that their bank is not willing or able to assent to having the covenant registered in priority on the property title. In effect, the covenant is a binding agreement between the Owners and the District, but without being registered it would not transfer with the land if the property were sold.

The salient sections of the restrictive covenant are shown in the excerpt below:

The effect of the covenant is threefold: to connect the Commercial Tourist Accommodation to the ongoing operation of the existing Guide and Charter business, to ensure that the staff housing proposed by the Owners would be constructed according to their proposed timeline, and to ensure it would only be used for the proposed staff accommodation purpose.

Restriction on Commercial Tourist Accommodation

3. The Grantor will not use the Land for the purpose of providing Commercial Tourist Accommodation unless such use is operated as an integral component to provide accommodation for guests of a commercial fish guiding business also operating from the Land;

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Provision of Staff Housing

4. The Grantor will not use the Land for Commercial Tourist Accommodation unless:

- (a) the Grantor applies for and obtains a building permit from the District for the construction of a minimum of six (6) staff housing units on the Land by May 1, 2022;
- (b) the Grantor obtains an occupancy permit for a minimum of six (6) staff housing units on the Land by May 1, 2024; and
- (c) **upon completion of (a) and (b)**, a minimum of six (6) staff housing units built in conformance with (a) are made available to local workers and operated according to the terms of a Housing Agreement between the Grantor and the District authorized by *Ucluelet Housing Agreement Bylaw No. 1249, 2019*.

The Owners have now asked that the zoning amendment be adjusted to achieve much of the same assurances that the restrictive covenant provides, with the hope that Council would adopt the zoning amendment without the restrictive covenant being registered on title. Staff have therefore drafted a new *Ucluelet Zoning Amendment Bylaw No. 1303, 2022* ("Bylaw No. 1303"), which is presented for Council's consideration in **Appendix A**. This new zoning amendment bylaw more closely defines the site-specific uses and defines areas within the property where the *tourist accommodation* and *staff housing* uses can occur. The effect is that the area where 6 staff accommodation units had been proposed could only be put to that use, or left vacant. Note this approach would not guarantee or compel the owners to construct staff accommodation units. Should the property change ownership, the zoning limitations would still apply.

Council should consider whether the new Bylaw No. 1303 satisfies the public interest; i.e., whether it meets the intent of condition b(iii) from the Council motion of October 19, 2018.

FIRE ACCESS:

An item which arose from the code review of the building is that fire access is required over a portion of the neighbouring lot, which is under the same ownership. A typical way to address this type of deficiency would be for the Owner to register an access easement on the title of their neighbouring property. As with the restrictive covenant, the Owners indicate they are not willing or able to register such an easement on title at this time.

The occupancy permit for the building would remain provisional until such time as the access easement were registered. In addition, should the zoning be adopted to authorize the *Commercial Tourist Accommodation* use, then any business licence issued for such use could contain a condition explicitly noting that the fire access be maintained and kept clear. In that case, should the ownership of the adjacent lot change and block that access, the business licence could be suspended – providing a mechanism if necessary to ensure the accommodation units are not occupied without the necessary fire access. To avoid putting the municipality in a position where it is responsible for monitoring the fire access, staff recommend a condition on the business licence stipulating that it would not be renewed without the easement in place. This would give the Owners one year to arrange to either consolidate their lots or register the appropriate easement.

LANDSCAPING:

With their original application, the Owners had proposed to install landscape screening along Forbes Road and new trees along the edge of the adjacent park. Back in 2019 staff provided notes on what planting might be acceptable on the public boulevard and within the park (see **Appendix F**). While the restrictive covenant (unregistered) commits the Owners to construct the development according to the plans they submitted for the rezoning – including the landscape improvements - staff suggest that this be treated as a desirable but not crucial addition. Staff support moving forward with the zoning amendment and focus on bringing all aspects of the building and its uses into compliance for health and safety purposes, and leave the landscape treatment for another phase.

HOUSING AGREEMENT BYLAW:

The Housing Agreement attached to Bylaw No 1249 has been amended to include a new section 3. This section provides that if at some future date the current or future owners of the property wished to discontinue the *Commercial Tourist Accommodation* use, then the dwelling units could be used as additional *Staff Accommodation* under the same terms as the previous draft of the Housing Agreement.

ANALYSIS OF OPTIONS

With respect to the addition of *Commercial Tourist Accommodation* to the uses permitted by the zoning of the property at 354 Forbes Road, Council can consider the following:

		<u>Pros</u>	<ul style="list-style-type: none">• For the Owners, allows them to move forward toward obtaining a business licence for their guest lodge.• Would enable a degree of closure on a longstanding bylaw infraction with the subject property.
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A	That Council abandon the previous Zoning Amendment Bylaw No, 1248, 2019, and proceed with first readings of Zoning Amendment Bylaw No. 1303, 2022, and amendment of the Housing Agreement.		<ul style="list-style-type: none"> The narrowly-defines uses in the zoning would create a high likelihood of staff housing being eventually developed on the site as proposed.
		<u>Cons</u>	<ul style="list-style-type: none"> Would not guarantee a timeline for constructing a minimum of 6 employee housing units. Would not necessarily see the landscape improvements previously proposed for the public boulevard and neighbouring park.
		<u>Implications</u>	<ul style="list-style-type: none"> This appears to be the best option at this point for moving forward and addressing the minimum health and safety issues with the use of the building, while enabling the fishing charter business to proceed with providing accommodation for its clients. The zoning amendment, as drafted, would leave the door open for staff accommodation units and would create a situation where the use of the building for accommodating staff is likely.
		<u>Suggested Motion</u>	<ol style="list-style-type: none"> THAT Council give first and second readings to <i>Ucluelet Zoning Amendment Bylaw No. 1303, 2022</i>; THAT Council refer <i>Ucluelet Zoning Amendment Bylaw No. 1303, 2022</i>, to a public hearing; THAT Council rescind third reading of <i>Ucluelet Housing Agreement Bylaw No. 1249, 2019</i>; THAT Council amend <i>Ucluelet Housing Agreement Bylaw No. 1249, 2019</i>, to include the new section 3 in Schedule A and to replace Schedule B as shown in Appendix B to the staff report dated March 15, 2022; THAT Council give <i>Ucluelet Housing Agreement Bylaw No. 1249, 2019</i>, third reading as amended; and, THAT Council direct that any business licence issued for <i>Commercial Tourist Accommodation</i> use on the property at 354 Forbes Road contain the condition that the business licence would not be renewed unless an appropriate fire access easement is first registered on the title of the neighbouring vacant lot.
B	That Council indicate to the Owners its expectation that the conditions for adopting the requested zoning amendment remain unchanged.	<u>Pros</u>	<ul style="list-style-type: none"> May result in the covenant being registered and, by extension, could ensure the provision of 6 staff accommodation units. May result in the landscape improvements being installed sooner.
		<u>Cons</u>	<ul style="list-style-type: none"> More likely would result in a bylaw enforcement issue demanding District resources to resolve.
		<u>Implications</u>	<ul style="list-style-type: none"> A business licence could not be issued for the operation of the guest lodge at this time. If the owners were to proceed with accommodating guests, it would then become a matter of bylaw enforcement.

	<p><u>Suggested Motion</u></p>	<p>THAT Council direct staff to advise the applicant to arrange for the registration of the section 219 restrictive covenant and access easement on the title of the property at 354 Forbes Road, and defer further consideration of amending the zoning designation of the property until such time as the conditions stated by Council in October 2018 are met.</p>
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POLICY OR LEGISLATIVE IMPACTS:

If Council gives first and second readings to the zoning amendment Bylaw No. 1303, a public hearing would be scheduled and the statutory notification would be completed.

If Council directs that the original conditions be met, then once the Owners have completed the outstanding items the original Zoning Amendment Bylaw No. 1248, 2019, would be brought back to Council for adoption.

RESPECTFULLY SUBMITTED:

BRUCE GREIG, DIRECTOR OF COMMUNITY PLANNING

DUANE LAWRENCE, CAO

DISTRICT OF UCLUELET

Zoning Bylaw Amendment Bylaw No. 1303, 2022

A bylaw to amend the District of Ucluelet Zoning Bylaw (354 Forbes Road).

WHEREAS Section 479 and other parts of the *Local Government Act* authorize zoning and other development regulations;

NOW THEREFORE the Council of the District of Ucluelet, in open meeting assembled, enacts as follows;

1. Text and Map Amendment:

Schedule B of the District of Ucluelet Zoning Bylaw No. 1160, 2013, as amended, is hereby further amended by adding the following subsection (3) to section CD-1.1.3 in alphanumeric order, as follows:

“(3) On Lot 17 District Lot 284 Clayoquot District Plan VIP76147 (PID: 025-926-811, 354 Forbes Road) the following uses are permitted:

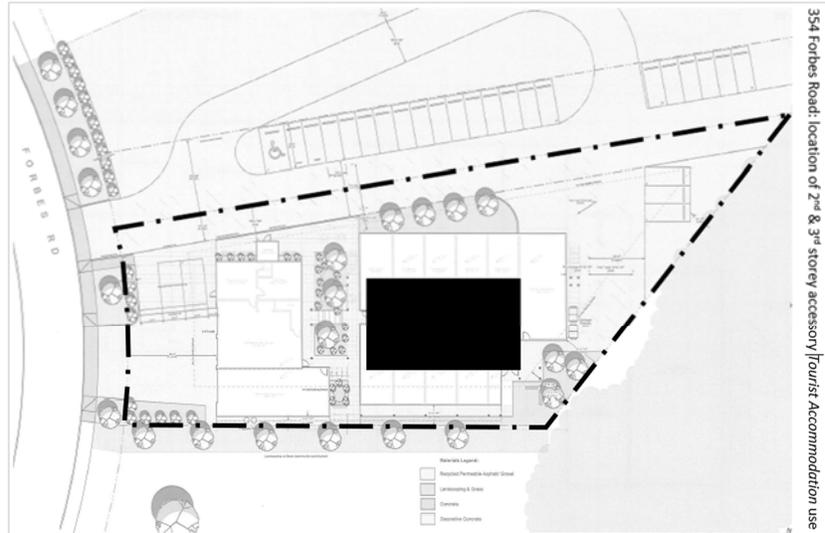
Principal Uses:

- (a) *Recreational Services* limited to marine-related guiding, tours or charters;
- (b) *Light Industry*;
- (c) *Staff Housing*, subject to the terms of a Housing Agreement with the District pursuant to section 483 of the *Local Government Act*;

Accessory Uses:

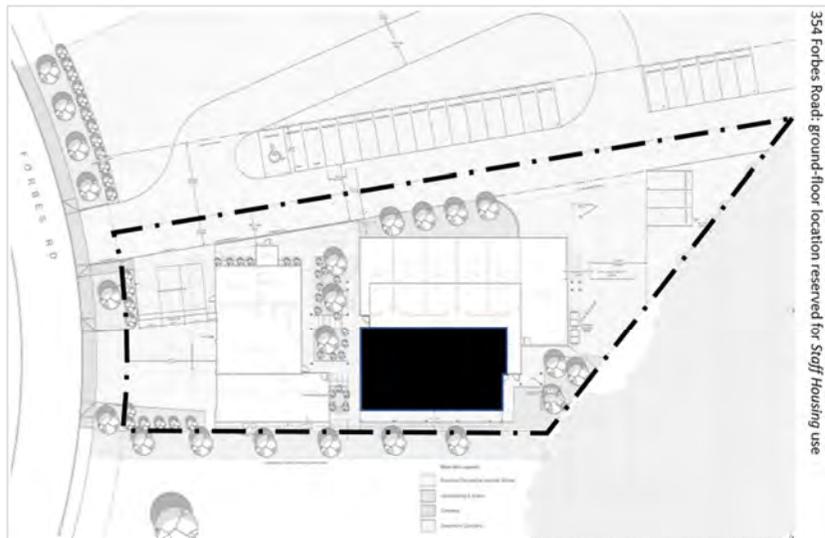
- (a) *Single-Family Residential*;

(b) *Commercial Tourist Accommodation* is permitted as an accessory use on the second and third levels of a mixed-use building on the area of the Lot shaded in black on the site plan below, so long as marine-related *Recreational Services* is active as the principal use of the property:



Limitation on ground-floor use of the rear of the property, adjacent to park:

(a) The ground-floor area of the Lot shaded in black on the site plan below may only be used for *Staff Housing*, or left vacant:



2. Citation

This bylaw may be cited as “District of Ucluelet Zoning Bylaw Amendment Bylaw No. 1303, 2022”.

READ A FIRST TIME this day of , 2022.

READ A SECOND TIME this day of , 2022.

PUBLIC HEARING held this day of , 2022.

READ A THIRD TIME this day of , 2022.

ADOPTED this day of , 2022.

CERTIFIED A TRUE AND CORRECT COPY of “District of Ucluelet Zoning Amendment Bylaw No. 1248, 2019.”

Mayco Noël
Mayor

Paula Mason
Deputy Corporate Officer

THE CORPORATE SEAL of the District of Ucluelet was hereto affixed in the presence of:

Paula Mason
Deputy Corporate Officer

SCHEDULE 'A'
Bylaw No. 1303, 2022

Subject property:
Lot 17, District Lot 281, Clayoquot District, Plan VIP76147 (354 Forbes Road)



DISTRICT OF UCLUELET

Bylaw No. 1249, 2019

A Bylaw to Authorize the District of Ucluelet to Enter into a Housing Agreement.
(the 354 Forbes Road staff housing)

WHEREAS the Municipality may, by Bylaw, under Section 483 of the *Local Government Act* enter into a Housing Agreement which may include terms and conditions agreed to by the Municipality and the Owner regarding the occupancy of the housing units identified in the Agreement;

AND WHEREAS the Municipality has rezoned the property at 354 Forbes Road to enable the Owner to rectify building construction issues and add new tourist accommodation units on upper floors, and as a part of that rezoning the owner has proposed that the lower level of the building be used for employee housing with a proposed timeline for constructing and making the employee housing available to Ucluelet workers;

AND WHEREAS the Owner has offered to register a Housing Agreement to ensure that staff housing units are maintained on the Lands described in this Bylaw, and the Municipality has deemed it expedient to require the Owner to enter into a Housing Agreement with the Municipality pursuant to Section 483 of the *Local Government Act*;

NOW THEREFORE the Council of the District of Ucluelet, in open meeting assembled, enacts as follows:

1. The Municipality is authorized to enter into a Housing Agreement pursuant to Section 483 of the *Local Government Act*, in substantially the form attached to this Bylaw as Schedule "A", with respect to the land located in the District of Ucluelet having a civic address of 354 Forbes Road and being more particularly known and described as:

Lot 17, District Lot 281, Clayoquot District, Plan VIP76147

as shown shaded on the map attached to this bylaw as Appendix "A".

2. The Mayor and the Chief Administrative Officer of the Municipality are authorized to execute the Housing Agreement on behalf of the Municipality.

CITATION

3. This bylaw may be known and cited for all purposes as the "**Ucluelet Housing Agreement Bylaw No. 1249, 2019**".

READ A FIRST TIME this 9th day of **April**, 2019.

READ A SECOND TIME this 9th day of **April**, 2019.

PUBLIC HEARING held this 30th day of **April**, 2019.

READ A THIRD TIME this 14th day of **May**, 2019.

THIRD READING RESCINDED this day of , 2022.

AMENDED this day of , 2022.

READ A THIRD TIME AS AMENDED this day of , 2022.

ADOPTED this day of , 2019.

CERTIFIED CORRECT: "Ucluelet Housing Agreement Bylaw No. 1249, 2019"

Mayco Noël
Mayor

Paula Mason
Deputy Corporate Officer

THE CORPORATE SEAL of the
District of Ucluelet was hereto
affixed in the presence of:

Paula Mason
Deputy Corporate Officer

Appendix "A" to Ucluelet Housing Agreement Bylaw No. 1249, 2019

Subject property: Lot 17, District Lot 281, Clayoquot District, Plan VIP76147 (354 Forbes Road)



Schedule "A" to Bylaw No. 1249

HOUSING AGREEMENT

(Section 483, *Local Government Act*)

This Agreement, dated for reference the ___ day of _____, 2022 is

BETWEEN:

The District of Ucluelet
200 Main Street (PO Box 999)
Ucluelet, BC
V0R 3A0

(the "District")

and:

William Glenn Kaczmar and Dianna Kacsmar
P.O. Box 1143
Ucluelet, BC
V0R 3A0

(the "Owner")

WHEREAS:

- A. The Owner is the registered owner of land located at 354 Forbes Road in the District of Ucluelet, which land is within the CD-1 Zone under the District's Zoning Bylaw 1160, and is more particularly described as:

PID: 025-926-811

Lot 17 District Lot 284 Clayoquot District Plan VIP76147

(the "Land");

- B. The Owner has offered to enter into this agreement restricting the occupancy of the proposed staff housing unit to employees of "Pacific Rim Fishing Charters" business operating on the Land, or other employees of light industrial, tourist accommodation, commercial or service businesses operating within the boundaries of the District of Ucluelet;
- C. The District may, pursuant to Section 483 of the *Local Government Act*, enter into a housing agreement with an owner of land that includes terms and conditions regarding the

occupancy, tenure and availability to specified classes of persons of the housing that is subject to the agreement; and,

- D. The Council of the District has, by Housing Agreement Bylaw No. 1249, 2019, authorized the District to enter into this Agreement with the Owner,

THIS AGREEMENT is evidence that in consideration of \$2.00 paid by the District to the Owner, the receipt and sufficiency of which are acknowledged by the Owner, and in consideration of the promises exchanged below, the parties agree, as a housing agreement between the Owner and the District under s. 483 of the *Local Government Act*, as follows:

STAFF HOUSING UNITS

1. **Occupancy Restriction.** The Owner agrees that any housing units located on the lower floor of the mixed-use building located on the Land, as indicated in Schedule B to this Agreement, will be occupied only by the employees of the Owner or employees of light industrial, tourist accommodation, commercial or service businesses located within the boundaries of the District of Ucluelet, and the children and spouses of those employees, provided that children and spouses are only allowed to occupy a unit while the unit is occupied by the employee.
2. **Annual Verification.** No later than January 15 of each year beginning in 2023 the Owner will provide to the District, substantially in the form attached as Schedule A to this Agreement unless the District agrees to accept another form, a written statement of the Owner confirming the occupancy in respect of each employee housing unit on the Land complies with section 1, above.
3. **Conversion of Tourist Accommodation.** At any time, the Owner has the option to convert Tourist Accommodation units on the upper levels of the mixed-use building located on the Land into additional Staff Housing, in which case the Owner agrees that any such housing units would follow the same occupancy restrictions and annual verification as set out in sections 1 and 2 above.

DEFAULT AND REMEDIES

4. The Owner agrees that any breach or default in the performance of this Agreement on its part must be corrected, to the satisfaction of the District, within the time stated in any notice of default provided to the Owner by the District.
5. The Owner acknowledges that an award of damages may be an inadequate remedy for a breach of this Agreement and that the District is entitled in the public interest to an order for specific performance of this Agreement, a prohibitory or mandatory injunction to cure any breach of this Agreement, and a declaration that a residential tenancy agreement or any portion of such an agreement or a strata corporation bylaw constitutes a breach of this Agreement and is unenforceable.

GENERAL PROVISIONS

6. **Housing Agreement.** The Owner acknowledges that this Agreement constitutes a housing agreement under s.483 of the *Local Government Act* and that the District will register a notice of this housing agreement against title to the Land.
7. **Indemnity.** The Owner shall indemnify and save harmless the District and each of its elected officials, officers, directors, employees and agents from and against all claims, demands, actions, loss, damage, costs and liabilities for which any of them may be liable by reason of any act or omission of the Owner or its officers, directors, employees, agents or contractors or any other person for whom the Owner is at law responsible, that constitutes a breach of this Agreement.
8. **Release.** The Owner releases and forever discharges the District and each of its elected officials, officers, directors, employees and agents and each of their heirs, executors, administrators, personal representatives, successors and assigns from all claims, demands, damages, actions or causes of action arising out of the performance by the Owner of its obligations under this Agreement.
9. **Survival.** The obligations of the Owner set out in sections 10 and 11 shall survive any termination of this Agreement.
10. **Municipal Powers Unaffected.** This Agreement does not limit the discretion, rights, duties or powers of the District under any enactment or the common law, impose on the District any duty or obligation, affect or limit any enactment relating to the use or subdivision of the Land, or relieve the Owner from complying with any enactment.
11. **No Public Law Duty.** Where the District is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the District is under no public law duty of fairness or natural justice in that regard and the Owner agrees that the District may do any of those things in the same manner as if it were a private party and not a public body.
12. **Notice.** Notice required or permitted to be served under this Agreement is sufficiently served if delivered in person or mailed to the postal address of the Owner or the District, as the case may be, at the address set out above, and in the case of mailed notice shall be deemed to have been received on the third day following mailing.
13. **Enuring Effect.** This Agreement is binding upon, and enures to the benefit of the parties and their respective successors and permitted assigns.
14. **Severability.** If any provision of this Agreement is found to be invalid or unenforceable, it shall be severed from this Agreement and the remainder shall remain in full force and effect.
15. **Remedies and Waiver.** All remedies of the District under this Agreement are cumulative, and

may be exercised in any order or concurrently, any number of times. Waiver of or delay by the District in exercising any remedy shall not prevent the later exercise of any remedy for the same or any similar breach.

- 16. **Sole Agreement.** This Agreement represents the entire agreement between the parties respecting the tenure, use and occupancy of the housing units to be located on the Land, and there are no representations, conditions or collateral agreements on the part of the District other than those set out in this Agreement.
- 17. **Further Assurance.** The Owner must forthwith do all acts and execute such instruments as may be reasonably necessary in the opinion of the District to give effect to this Agreement.
- 18. **Runs with the Land.** This Agreement runs with the Land, including any part into which the land may be subdivided, and is binding on the Owner and all persons who acquire an interest in the Land.
- 19. **No Joint Venture.** Nothing in this Agreement will constitute the District as the joint venturer, agent or partner of the Owner or give the Owner any authority to bind the District in any way.

Owners:

William Glenn Kaczmar
Dianna Kacsmar

Date:

The Corporation of the District of Ucluelet,
by its authorized signatories:

Mayor:

Date:

Corporate Officer:

Date:

Schedule A to Housing Agreement

STATUTORY DECLARATION

CANADA

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**IN THE MATTER OF A HOUSING
AGREEMENT WITH THE DISTRICT OF
UCLUELET**

PROVINCE OF BRITISH COLUMBIA

("Housing Agreement")

TO WIT:

I, _____ of _____, British Columbia, do solemnly declare that:

1. I am the owner or authorized signatory of the owner of land located at 354 Forbes Road in the District of Ucluelet, (the "Lands"), and make this declaration to the best of my personal knowledge.
2. This declaration is made pursuant to the Housing Agreement in respect of the Lands.
3. For the period from _____ to _____ the Lands were occupied only by employees of the Pacific Rim Fishing Charters or employees of other light industrial, tourist accommodation, commercial or service businesses operating within the District of Ucluelet, or the children or spouses of those employees. Attached to this declaration is a list of the tenants of each of the units located on the Lands, and their place of employment.
4. I make this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and pursuant to the *Canada Evidence Act*.

DECLARED BEFORE ME at the District of
Ucluelet, in the Province of British Columbia,
this _____ day of _____, 20____.

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)
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)
)

A Commissioner for Taking Affidavits in the
Province of British Columbia

DECLARANT

Schedule "B" to Housing Agreement

EMPLOYEE HOUSING UNITS

(354 Forbes Road – Pacific Rim Fishing Charters)



Pacific Rim Fishing Charters

354 Forbes Rd, Ucluel, BC

Site Plan

Appendix C

LAND TITLE ACT
FORM C (Section 233) CHARGE

GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 2 PAGES

Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSBC 1996 c.250, that you certify this document under section 168.41(4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.



1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Kurt Meyer, Notary Public
Kurt Meyer Notary Corporation
4201 Johnston Rd.
Port Alberni

BC V9Y 5M8

Phone No. (778) 421-2526
File No. 20-297

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

025-926-811 LOT 17 DISTRICT LOT 284 CLAYOQUOT DISTRICT PLAN VIP76147

STC? YES

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Covenant

s. 219 Land Title Act Covenant

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms D.F. No.

(b) Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

WILLIAM GLEN KACZMAR AND DIANNA KACZMAR AS TO COVENANT
ROYAL BANK OF CANADA AS TO PRIORITY AGREEMENT

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

DISTRICT OF UCLUELET

BOX 999, 200 MAIN STREET

UCLUELET

V0R 3A0

BRITISH COLUMBIA

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

N/A

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

KURT WILLIAM MEYER

Notary Public

4201 Johnston Rd.
Port Alberni, BC V9Y 5M8
Ph. (778) 421-2526

Execution Date

Y	M	D
20	11	05

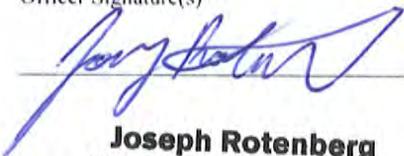
Transferor(s) Signature(s)

WILLIAM GLEN KACZMAR
DIANNA KACZMAR

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

Officer Signature(s)



Joseph Rotenberg
Deputy Corporate Officer
District of Ucluelet
200 Main St., PO Box 999
Ucluelet, B.C. V0R 3A0

A Commissioner for
taking affidavits in the
Province of British Columbia

(AS to both signatures)

Execution Date

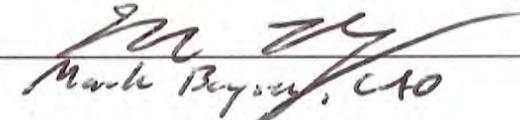
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Transferor / Borrower / Party Signature(s)

DISTRICT OF UCLUELET, by its
authorized signatories



Mayor



Mark Boyce, CAO

ROYAL BANK OF CANADA, by its
authorized signatories:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

TERMS OF INSTRUMENT – PART 2

COVENANT (Section 219 *Land Title Act*)

THIS COVENANT dated for reference the 5 day of November, 2020 is

BETWEEN:

William Glen Kaczmar and Dianna Kaczmar
P.O. Box 1346
Ucluelet, BC
V0R 3A0

(the "Grantor")

AND:

DISTRICT OF UCLUELET
Box 999
200 Main Street
Ucluelet BC V0R 3A0

(the "District")

WHEREAS:

- A. The Grantor is the registered owner of land located at 354 Forbes Road in Ucluelet, British Columbia and more particularly described as:

PID: 025-926-811
Lot 17 District Lot 284 Clayoquot District Plan VIP76147

(the "Land");

- B. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of the District, in respect of the use of land or buildings, or the building on land;
- C. The Grantor has applied to the District for a rezoning of the Land to permit the development of non-residential, daily or short-term accommodation for paying guests ("Commercial Tourist Accommodation") on the Land, and in connection with the

Grantor's application for rezoning the Grantor has offered grant this Covenant to the District;

- D. The Grantor wishes to grant this Covenant to the District to confirm it will not develop the Land except in accordance with the development plan prepared in conjunction with the Grantor's rezoning application and presented to the District Council and the public in connection with the application, and in particular that it will provide the landscaping and screening presented with the rezoning application;
- E. The Grantor wishes to grant this Covenant to the District to confirm that the Commercial Tourist Accommodation will not operate except as an integrated component of a fish guiding business operating from the same property; and,
- F. The Grantor wishes to grant this Covenant to the District to confirm that the Commercial Tourist Accommodation will only operate if the staff housing is provided as proposed.

THIS COVENANT is evidence that in consideration of the payment of TWO DOLLARS (\$2.00) by the District to the Grantor, and other good and valuable consideration (the receipt and sufficiency of which are acknowledged by the parties), the Grantor covenants and agrees with the District, in accordance with section 219 of the *Land Title Act*, as follows:

Restriction on Development of the Land

- 1. The Grantor will not alter the Land, or construct or place any building or structure on the Land, nor apply for any building permit from the District in relation to the Land, except to the extent that the alteration, construction or placement is in accordance with, or is to facilitate the implementation of, the plan(s) for the development of the Land attached to this Covenant as Schedule A (the "Development Plan(s)").

Amendments to Development Plans

- 2. The Grantor may request, and the District's Manager of Planning may, in his or her sole discretion, approve minor deviations from the Development Plan(s), provided that any such requests or approvals must be made in writing.

Restriction on Commercial Tourist Accommodation

- 3. The Grantor will not use the Land for the purpose of providing Commercial Tourist Accommodation unless such use is operated as an integral component to provide accommodation for guests of a commercial fish guiding business also operating from the Land;

Provision of Staff Housing

4. The Grantor will not use the Land for Commercial Tourist Accommodation unless:
 - (a) the Grantor applies for and obtains a building permit from the District for the construction of a minimum of six (6) staff housing units on the Land by May 1, 2022;
 - (b) the Grantor obtains an occupancy permit for a minimum of six (6) staff housing units on the Land by May 1, 2024; and
 - (c) **upon completion of (a) and (b)**, a minimum of six (6) staff housing units built in conformance with **(a)** are made available to local workers and operated according to the terms of a Housing Agreement between the Grantor and the District authorized by *Ucluelet Housing Agreement Bylaw No. 1249, 2019*.

Subject to Bylaws

5. This Covenant does not relieve the Grantor in any way from complying with all applicable bylaws of the District or other enactments applicable to the Land.

Inspections

6. The District and any of its officers and employees may enter on the Land at all reasonable times, to inspect the Land for the purpose of ascertaining compliance with this Covenant.

Amendment

7. This Covenant may be altered or amended only by an agreement in writing signed by the parties.

No Public Law Duty

8. Whenever in this Covenant the District is required or entitled to exercise any discretion in the granting of consent or approval, or is entitled to make any determination, take any action or exercise any contractual right or remedy, the District may do so in accordance with the contractual provisions of this Covenant only and will not be bound by any public law duty, whether arising from the principles of procedural fairness or the rules of natural justice or otherwise.

No Obligations on District

9. The rights given to the District by this Covenant are permissive only and nothing in this Covenant:

- (a) imposes any duty of care or other legal duty of any kind on the District to the Grantor or to anyone else;
- (b) obliges the District to enforce this Covenant, which is a policy matter within the sole discretion of the District; or
- (c) obliges the District to perform any act, or to incur any expense for any of the purposes set out in this Covenant.

No Effect on Laws or Powers

10. This Covenant does not,
- (a) affect or limit the discretion, rights or powers of the District under any enactment or at common law, including in relation to the use or subdivision of the Land;
 - (b) affect or limit any law or enactment relating to the use or subdivision of the Land; or
 - (c) relieve the Grantor from complying with any law or enactment, including in relation to the use or subdivision of the Land.

District's Right to Equitable Relief

11. The Grantor agree that the District is entitled to obtain an order for specific performance or a prohibitory or mandatory injunction in respect of any breach by the Grantor of this Covenant.

Covenant Runs With the Land

12. Every obligation and covenant of the Grantor in this Covenant constitutes both a contractual obligation and a covenant granted under section 219 of the *Land Title Act* in respect of the Land and this Covenant burdens the Land and runs with it and binds the successors in title to the Land. For certainty, unless expressly stated otherwise, the term "Grantor" refers to the current and each future owner of the Land. This Covenant burdens and charges all of the Land and any parcel into which it is subdivided by any means and any parcel into which the Land is consolidated.

Registration

13. The Grantor agrees to do everything necessary, at the Grantor's expense, to ensure that this Covenant is registered against title to the Land with priority over all financial charges,

liens and encumbrances registered, or the registration of which is pending, at the time of application for registration of this Covenant.

Waiver

14. An alleged waiver by the District of any breach of this Covenant by the Grantor is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver by the District of a breach by the Grantor of this Covenant does not operate as a waiver of any other breach of this Covenant.

Notice

15. Any notice to be given pursuant to this Covenant must be in writing and must be delivered personally or sent by prepaid mail. The addresses of the parties for the purpose of notice are the addresses on the first page of this Covenant and in the case of any subsequent owner, the address will be the address shown on the title to the Land in the Land Title Office.

If notice is delivered personally, it may be left at the relevant address in the same manner as ordinary mail is left by Canada Post and is to be deemed given when delivered. If notice is sent by mail, it is to be deemed given 3 days after mailing by deposit at a Canada Post mailing point or office. In the case of any strike or other event causing disruption of ordinary Canada Post operations, a party giving notice for the purposes of this Covenant must do so by delivery as provided in this section.

Either party may at any time give notice in writing to the other of any change of address and from and after the receipt of notice the new address is deemed to be the address of such party for giving notice.

Enurement

16. This Covenant binds the parties to it and their respective corporate successors, heirs, executors, administrators and personal representatives.

Joint and Several

17. If at any time more than one person (as defined in the *Interpretation Act* (British Columbia)) owns the Land, each of those persons will be jointly and severally liable for all of the obligations of the Grantor under this Covenant.

Further Acts

18. The Grantor must do everything reasonably necessary to give effect to the intent of this Covenant, including execution of further instruments.

As evidence of their agreement to be bound by the terms of this instrument, the parties hereto have executed the Land Title Office Form C which is attached hereto and forms part of this Covenant.

PRIORITY AGREEMENT

This Priority Agreement is between ROYAL BANK OF CANADA (the "Prior Chargeholder"), being the registered owner and holder of Mortgage No. FB423654 (the "Prior Charge"), and the District of Ucluelet, being the registered owner and holder of the covenant under section 219 of the *Land Title Act* (British Columbia) to which this Priority Agreement is attached (the "Subsequent Charge").

In consideration of the sum of ten dollars (\$10.00) now paid to the Prior Chargeholder and other good and valuable consideration, the receipt and sufficiency of which the Prior Chargeholder acknowledges, the Prior Chargeholder hereby approves of and consents to the granting of the Subsequent Charge and hereby postpones all of the Prior Chargeholder's rights under the Prior Charge to the rights of the Municipality under the Subsequent Charge in the same manner and to the same extent as if the Prior Charge had been registered immediately after the Subsequent Charge.

As evidence of its agreement to be bound by this Priority Agreement, the Prior Chargeholder has executed the General Instrument – Part 1 (*Land Title Act* - Form C) attached to and forming part of this Priority Agreement dated for reference November 5, 2020.

END OF DOCUMENT

Schedule A - Development Plans



April 1, 2018

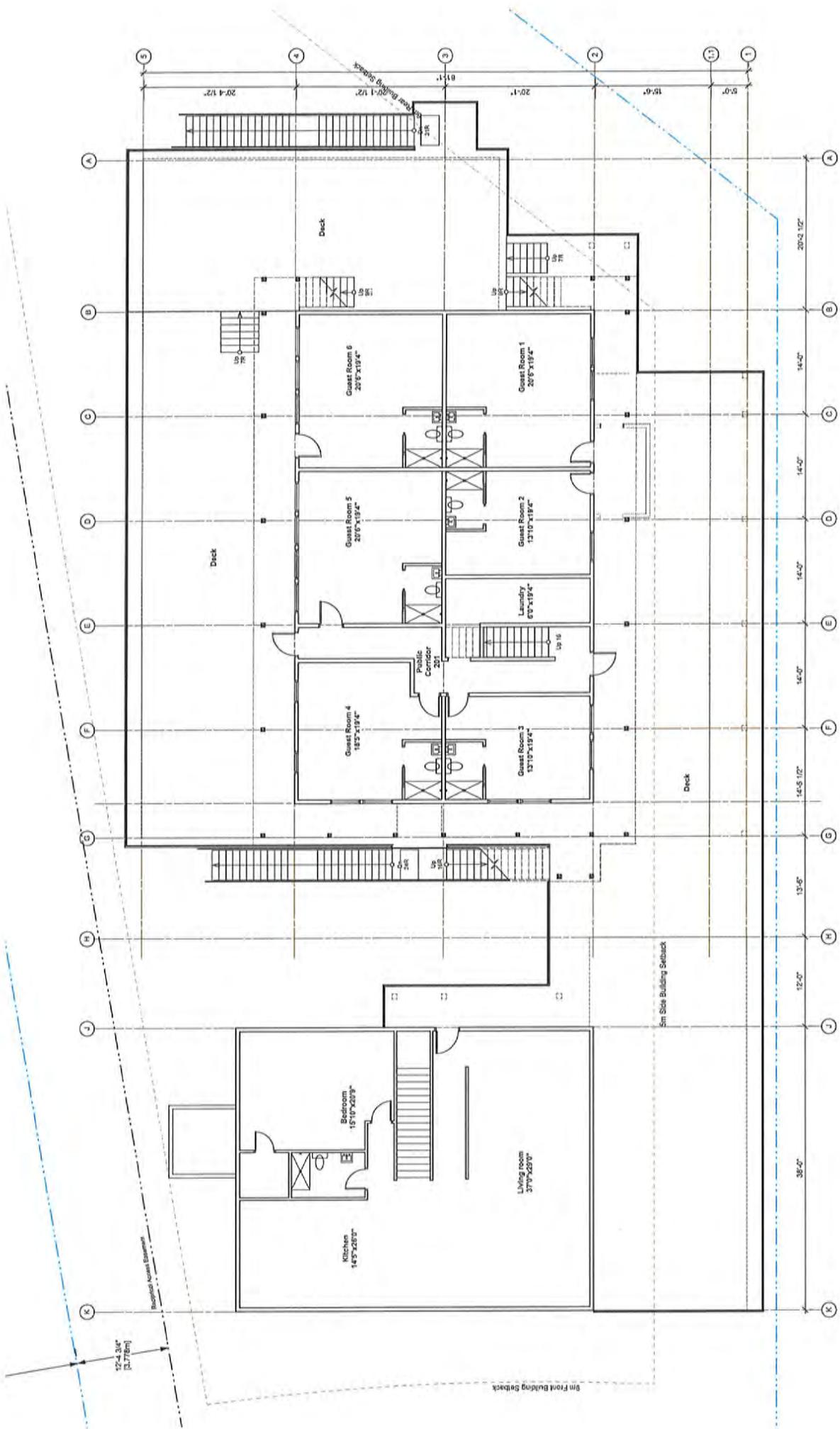
A1.1

Site Plan

354 Forbes Rd, Ucluelet, BC

Pacific Rim Fishing Charters





A2.2

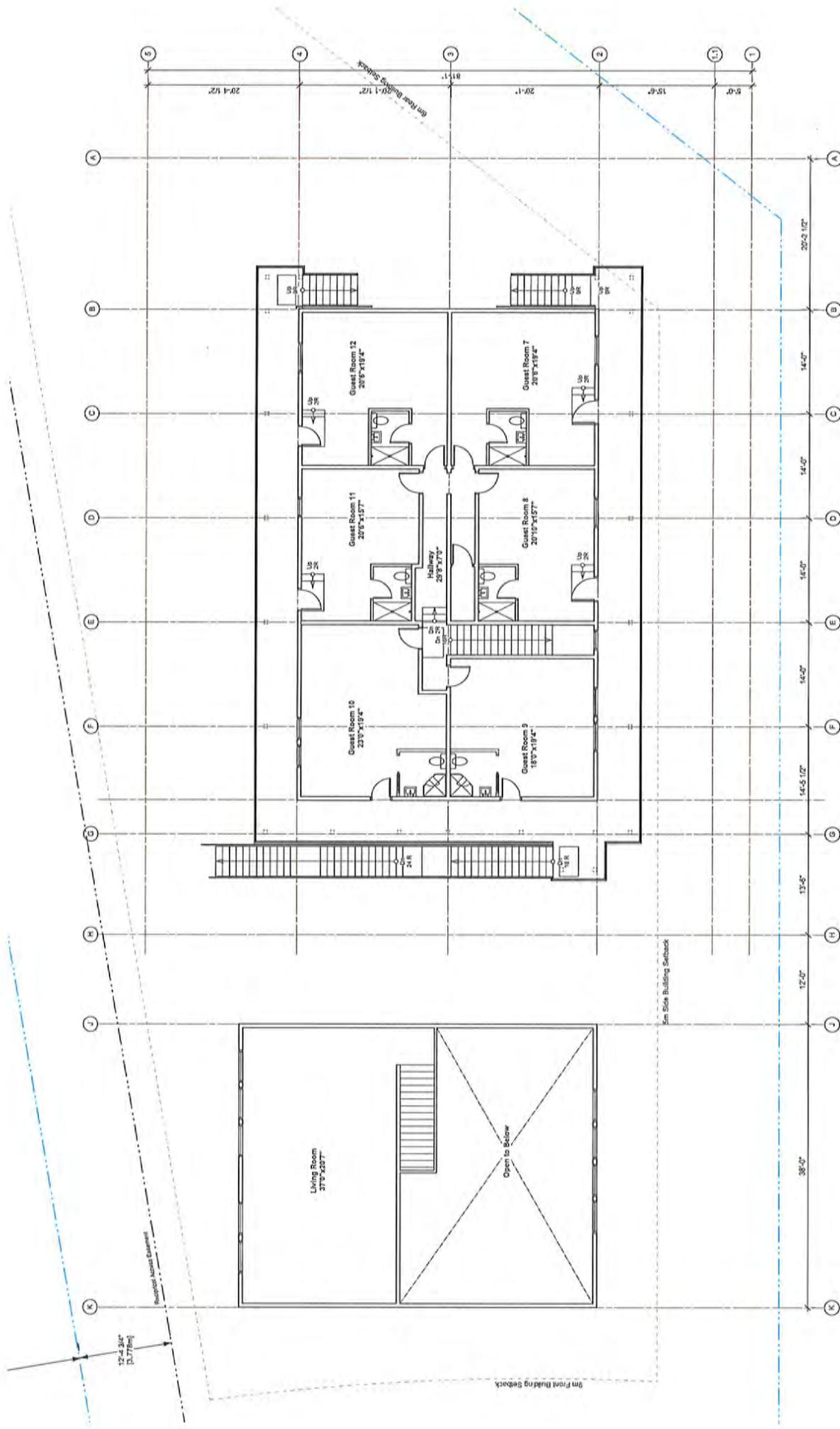
April 1, 2019

L2 Plan

354 Forbes Rd. Ucluelet, BC

Pacific Rim Fishing Charters





A2.3

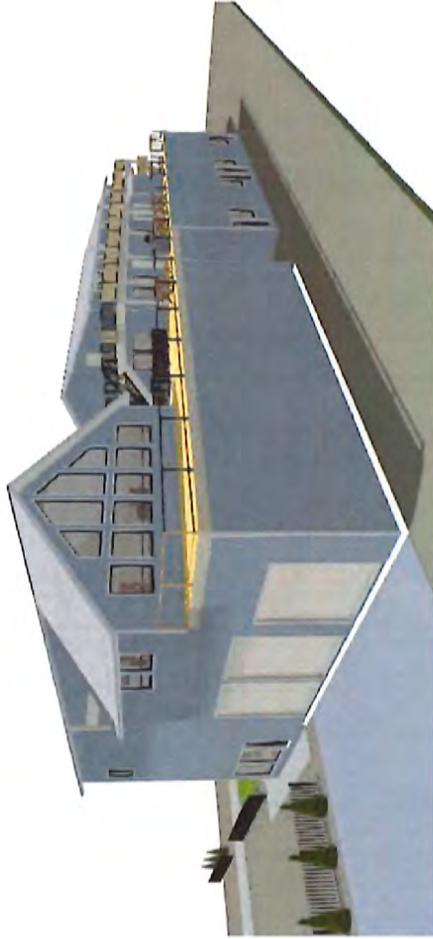
April 1, 2019

L3 Plan

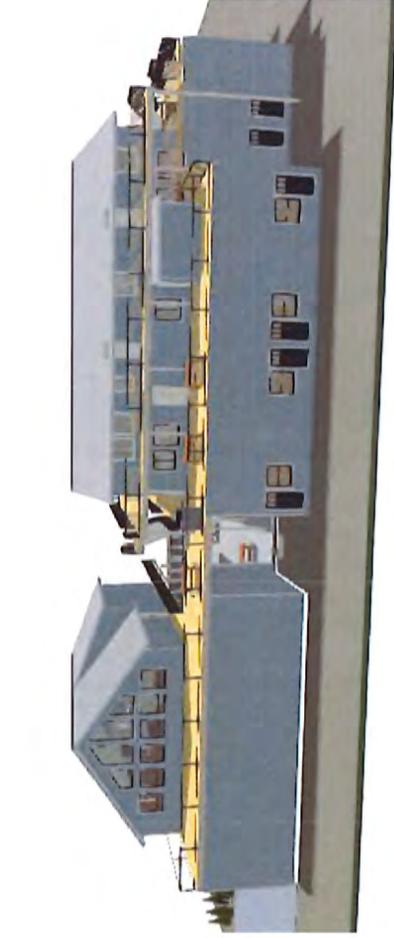
354 Forbes Rd, Uduleiet, BC

Pacific Rim Fishing Charters





1 North Perspective



2 South East Perspective



3 South West Perspective



4 North Perspective



STAFF REPORT TO COUNCIL

Council Meeting: OCTOBER 9TH, 2018
500 Matterson Drive, Ucluelet, BC V0R 3A0

FROM: BRUCE GREIG, MANAGER OF COMMUNITY PLANNING

FILE NO: 3360-20-RZ17-04

SUBJECT: ZONING AMENDMENT APPLICATION –
PACIFIC RIM CHARTERS & GUEST LODGE (354 FORBES ROAD)

REPORT NO: 18-103

ATTACHMENT(S): APPENDIX A – APPLICATION MATERIALS
APPENDIX B – BUILDING ASSESSMENT BY RAYMOND DE BEELD ARCHITECT INC.

RECOMMENDATION(S):

1. **THAT** Council indicate support for the concept of adding 12 *commercial tourist accommodation* rooms and a minimum of 6 *staff housing* units as permitted uses on the property at 354 Forbes Road and:
 - a. indicate to the applicant that detailed building, site, and landscape plans are required to show the impact of the proposal on the surrounding industrial lands, public streetscape and park land;
 - b. indicate that adoption of a zoning amendment bylaw would be subject to the following:
 - i. the owners first obtaining a building permit, then completing the necessary building renovations to bring the building up to code and finally obtaining an occupancy permit to clarify that the building is safe for its intended use;
 - ii. the owners entering into a Housing Agreement to ensure that the employee housing units are occupied by seasonal or long-term resident workers;
 - iii. to owners providing a restrictive covenant to ensure the provision of staff housing and that occupancy of the guest accommodation units is tied to the ongoing operation of a fishing guide business from the property; and,
 - c. once a complete set of rezoning plans has been submitted by the owners, direct staff to prepare the zoning amendment and housing agreement bylaws for consideration by Council at a future meeting.

PROPOSAL:

The purpose of this report is to advise Council of the current proposal for amending the zoning of the property at 354 Forbes Road and seek direction on next steps. Glenn and Dianna Kaczmar, owners of Pacific Rim Fishing Charters and Guest Lodge, have applied to amend the permitted uses in section CD-1.1.3 of the CD-1 Eco-Industrial Park zoning to enable the addition of up to 12 *commercial tourist accommodation* units and a minimum of 6 *staff housing* units in the existing building on the subject property (see Appendix 'A'). The single-family residence, office and storage uses would continue on the property as well. There are a number of elements to consider with this application including the history of the building and bylaw compliance, how the requested uses are

proposed to support the existing fishing charter business, and how the proposed uses would fit in this location.

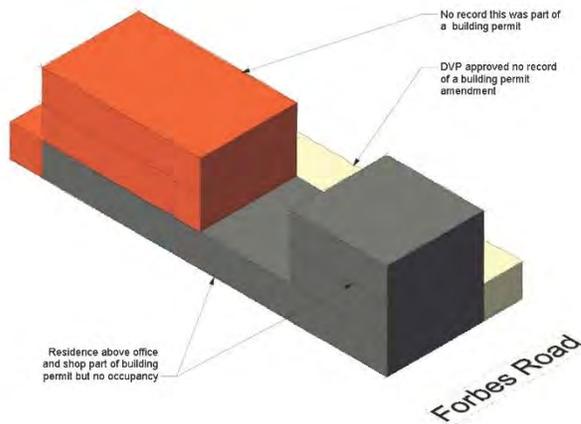
BACKGROUND:

The following provides a brief outline of the steps leading to the current zoning amendment application:

- A Building Permit (permit U-06-41) was issued in 2006 for a grade-level storage building plus a single-family dwelling over an office space on the west end, in the areas indicated in red below:



- There is record that some building inspections were done during construction but there is no record of final inspection and no Occupancy Permit issued for Building Permit U-06-41;
- A Development Variance Permit application was considered by Council in June of 2007 to reduce the side and rear setbacks, to allow for an additional 2,500 sq.ft. of additional storage space to be added to the building (which was then under construction). The variances were granted by Council at its June 26, 2007, meeting but there is no record that the building permit was subsequently amended to include the additional building area;
- There is no record of a building permit for the eastern addition of a second and third storey over the storage garage containing tourist accommodation units;
- BC assessment, business license and servicing records do not reflect multiple guest suites being located on the property.
- In June of 2016 the District received a bylaw complaint that an unauthorized guest lodge was operating on the property. Staff follow-up revealed that a business licence was valid for the fishing charter business, but not guest accommodation. The owners were forthcoming that the guest lodge had been in operation since 2010 and inquired about steps to obtain an updated business licence reflecting the intended use.



- Since the CD-1 zoning does not permit *tourist accommodation* as a permitted use, the owners were advised that a zoning amendment would be necessary before a business licence could be issued for the guest lodge use.
- The owners submitted a rezoning application in late 2016 / early 2017 requesting that the guest lodge use be added to the uses permitted on the property at 354 Forbes Road.
- A file review revealed the incomplete building permit status of the building; this information was communicated to the owners along with the request to provide record of an occupancy permit if

they in fact received one.

- A site visit and walk-through of the building was arranged with staff from the planning and building departments in November of 2017.
- In December, 2017, staff notified the owner of concerns that the building does not meet the minimum health and safety standards of the BC Building Code, and the guest suite addition of the building was posted with No Occupancy notices. At the time (the off-season) there was no indication that the guest suites were being occupied. In the letter to the owners, staff suggested that the following steps would be necessary to seek approval for operating a tourist accommodation business in the building:
 - a. Have the building assessed by a qualified coordinating professional;
 - b. Show how the building could be brought up to code by providing detailed plans for the upgrades;
 - c. Complete the rezoning of the property;
 - d. Obtain a Building Permit to authorize the previous construction and all necessary upgrades;
 - e. Complete the building upgrades;
 - f. Obtain an Occupancy Certificate for the building and its intended use; and,
 - g. Obtain an updated Business Licence.

The letter also suggested that alternative arrangements be made for accommodating guests for the 2018 season while the above steps were completed.

- In mid-June, 2018, staff became aware that the building is being used for guest accommodation. After investigating, the owners were subsequently issued tickets for non-compliance with the zoning bylaw and for ignoring the “do not occupy” notices. The owners immediately paid the fines.
- In August, 2018, the owners submitted a building assessment completed by Raymond de Beeld, Architect (see Appendix ‘B’). The assessment identifies a number of areas which require upgrade to meet the minimum standards of the BC Building Code. Some of the options are significant, such as demolishing a portion of the building to separate the single-family residence from the portion of the building now proposed to contain the tourist accommodation and staff housing suites.
- Planning and building staff met with the owner and architect on August 20, 2018, to discuss the findings of the building assessment and the path forward. It was agreed that the owner would clarify the intended use of the building(s) and on that basis a report on the requested

rezoning would be prepared for consideration by Council. At that time, a set of revised drawings was anticipated to accompany the application.

The owners face significant costs to bring the building up to code for it is intended use. The owners have been clear that they will not invest further to upgrade the building unless, at the end of the process, they are able to legally rent out tourist accommodation units as part of a package with their fishing charter business. At this point, the owners are seeking an indication of whether their requested zoning amendment will find support, before they commission more detailed architectural and engineering plans to define the building upgrades.

DISCUSSION:

A. Proposed Uses:

Tourist accommodation is not generally considered the most compatible land use in an industrial area. That said, there are a couple aspects to this proposal which set it apart. First, the location of the building on the edge of the Forbes Road industrial area, immediately next to the Tugwell Field park, is a different and better context for the proposed use compared to other locations. A site in the middle of the industrial park would not be supported by staff, where the tourist accommodation use would be expected to be surrounded by active businesses generating noises, sights and smells which could be found objectionable to guests and become a point of conflict.

A second consideration is that the use of the property for the storage and maintenance of boats for the fishing charter business is a permitted and valid use of this industrial property. The tourist accommodation is proposed to be co-located on property as an integrated part of the business. This lends support for the proposal that a standalone motel, for example, would not enjoy. Generally the community value of having adequate land designated for industrial uses comes from the support it provides for businesses and the jobs they create. The proposed tourist accommodation use would see the continued use of the property to support the fishing guide business. Staff are recommending that if approved on this basis, a restrictive covenant would be appropriate to ensure that the tourist accommodation remains as an integrated component of a fish guiding business, and is also only operated if the staff housing is provided as proposed.

Staff support the inclusion of six staff housing units as a part of this proposal. The CD-1 zoning currently permits "*mixed industrial / residential*" uses, but the definition limits the residential component to the second storey or higher. The proposal in this case is to re-purpose a portion of the large ground floor of the building to create six staff accommodation units. Including staff housing on site would benefit both the business and the community. Providing this additional housing would be a positive step and staff suggest that, if this forms part of Council's support for the rezoning, a Housing Agreement would be an appropriate instrument to ensure the terms and availability of the staff housing as intended.

B. Process:

As noted above, approval of the requested zoning amendment would be just one step toward bringing the building and property uses in compliance with the municipal bylaws and provincial code. Fundamentally, this is about confirming that the building meets the minimum health and safety standards for its intended use.

Should the zoning amendment be supported in concept, the owner should then provide zoning-level drawings showing the location of all intended uses within the building, access, parking and

landscaping. Improved landscaping and screening along the Tugwell Field and Forbes Road edges of the property would be appropriate elements to include with the overall building upgrades.

Once a full set of drawings is received, the application along with draft bylaws would be brought back to a future meeting of Council for further consideration. Should a rezoning bylaw proceed through the steps of a public hearing and receive third reading (often considered approval in principle), the owners would then need to apply for the appropriate building permits and complete the necessary building alterations. Once the building was renovated, certified as safe for its intended use and an Occupancy Certificate were issued, then the bylaw would return to Council for final adoption. At that point, the District could issue a business licence for the tourist accommodation component of the Pacific Rim Fishing Charters and Guest Lodge business.

The guest accommodation suites are to remain unoccupied until the municipality issues a Certificate of Occupancy. Even if the rezoning is supported and proceeds quickly, given the amount of work required to bring the building up to code it is extremely unlikely that the building would be ready for occupancy in time for the 2019 summer fishing season. Therefore, staff recommend that the owners make alternative arrangements for accommodating their guests for the 2019 season.

Should the requested rezoning not proceed, the building will remain posted with “do not occupy” notices. The owners would then need to decide whether to re-purpose the building for a different use (with the necessary building permits, of course), demolish the building, or leave it vacant.

FINANCIAL IMPACTS:

A building permit fee would be charged based on the construction value. The value of the property would be expected to increase with the proposed improvements, and additional commercial tax assessment would result. Water and sewer fees would be collected based on metered usage. These additional revenues are expected to offset the incremental increase in municipal services and infrastructure.

OPTIONS REVIEW:

1. **THAT** Council indicate support for the concept of adding 12 *commercial tourist accommodation* rooms and a minimum of 6 *staff housing* units as permitted uses on the property at 354 Forbes Road and:
 - a. indicate to the applicant that detailed building, site, and landscape plans are required to show the impact of the proposal on the surrounding industrial lands, public streetscape and park land;
 - b. indicate that adoption of a zoning amendment bylaw would be subject to the following:
 - i. the owners first obtaining a building permit, then completing the necessary building renovations to bring the building up to code and finally obtaining an occupancy permit to clarify that the building is safe for its intended use;
 - ii. the owners entering into a Housing Agreement to ensure that the employee housing units are occupied by seasonal or long-term resident workers;
 - iii. to owners providing a restrictive covenant to ensure the provision of staff housing and that occupancy of the guest accommodation units is tied to the ongoing operation of a fishing guide business from the property; and,

- c. once a full set of plans has been submitted by the owners, direct staff to prepare the necessary zoning amendment and housing agreement bylaws for consideration by Council at a future meeting.

(Recommended)

or;

2. **THAT** Council defer consideration of the rezoning application for the property at 354 Forbes Road at this time;

or;

3. **THAT** Council reject the rezoning application for the property at 354 Forbes Road at this time, and indicate to the owners that obtaining a certificate of occupancy is required before the unauthorized guest suite addition area of the building can be occupied for any use.

Respectfully submitted: Bruce Greig, Manager of Community Planning
John Towgood, Planner 1
Mark Boysen, Chief Administration Officer

Appendix E



STAFF REPORT TO COUNCIL

Council Meeting: APRIL 9, 2019

500 Matterson Drive, Ucluelet, BC V0R 3A0

FROM: BRUCE GREIG, MANAGER OF COMMUNITY PLANNING

FILE NO: 3360-20-RZ17-04

SUBJECT: ZONING AMENDMENT APPLICATION –
PACIFIC RIM CHARTERS & GUEST LODGE (354 FORBES ROAD)

REPORT NO: 19-42

ATTACHMENT(S): APPENDIX A – ADDITIONAL APPLICATION MATERIALS
APPENDIX B – STAFF REPORT FROM OCTOBER 9, 2018
APPENDIX C – UCLUELET ZONING AMENDMENT BYLAW No. 1248, 2019
APPENDIX D – UCLUELET HOUSING AGREEMENT BYLAW No. 1249, 2019

RECOMMENDATION(S):

1. **THAT** Council, with regard to the proposal to renovate the building on Lot 17, District Lot 281, Clayoquot District, Plan VIP76147 (354 Forbes Road) and request for zoning amendments to permit *commercial tourist accommodation* on the property:
 - a. give first and second readings to Ucluelet Zoning Amendment Bylaw No. 1248, 2019;
 - b. give first and second readings to Ucluelet Housing Agreement Bylaw No. 1249, 2019;
 - c. indicate support, subject to public comment, to issue a Development Variance Permit to vary the following aspects of the Eco-Industrial Park (CD-1) zoning regulations for the existing building:
 - i. reduce the side yard setback per CD-1.6.1(3) on the south side from a minimum of 5m to 1.22m;
 - ii. reduce the rear yard setback per CD-1.6.1(3) from a minimum of 6m to 4.05m;
 - iii. reduce the parking setback per 503.2(1) from a minimum of 3m to 1.5m, subject to the owner installing the proposed landscaped screening within the reduced setback area;
 - iv. increase the permitted building height per CD-1.5.1(4) from a maximum of 12m to 12.95m; and,
 - v. waive the requirement per 602.1(1) for screening of waste and recycling bins, located at the rear of the building;
 - d. direct staff to give notice of a public hearing to receive comment on the requested bylaws and Development Variance Permit.

BACKGROUND:

Council received a report on the past uses and current request to rezone the property at 354 Forbes Road at its October 9, 2018, meeting. The full background on this application is attached in the staff report presented at that meeting (see **Appendix B**). Following discussion, Council passed the following motion:

***“THAT** Council indicate support for the concept of adding 12 commercial tourist accommodation rooms and a minimum of 6 staff housing units as permitted uses on the property at 354 Forbes Road and:*

- a. indicate to the applicant that detailed building, site, and landscape plans are required to show the impact of the proposal on the surrounding industrial lands, public streetscape and park land;*
- b. indicate that adoption of a zoning amendment bylaw would be subject to the following:*
 - i. the owners first obtaining a building permit, then completing the necessary building renovations to bring the building up to code and finally obtaining an occupancy permit to clarify that the building is safe for its intended use;*
 - ii. the owners entering into a Housing Agreement to ensure that the employee housing units are occupied by seasonal or long-term resident workers;*
 - iii. to owners providing a restrictive covenant to ensure the provision of staff housing and that occupancy of the guest accommodation units is tied to the ongoing operation of a fishing guide business from the property; and,*
- c. once a complete set of rezoning plans has been submitted by the owners, direct staff to prepare the zoning amendment and housing agreement bylaws for consideration by Council at a future meeting.”*

The owners of Pacific Rim Charters, Glenn and Dianna Kaczmar, have now submitted the necessary plans prepared under the guidance of their architect (see **Appendix A**). Accordingly, staff have drafted Zoning Amendment Bylaw No. 1248 and Housing Agreement Bylaw No. 1249 for Council consideration.

DISCUSSION:

A. Building Plans and Proposed Uses:

The October 2018 staff report discussed the pros and cons of locating tourist accommodation within a light industrial area, and noted the context of this particular site and the integration of accommodation with the existing fishing charter business:

“... the use of the property for the storage and maintenance of boats for the fishing charter business is a permitted and valid use of this industrial property. The tourist accommodation is proposed to be co-located on property as an integrated part of the business. This lends support for the proposal that a standalone motel, for example, would not enjoy. Generally the community value of having adequate land designated for industrial uses comes from the support it provides for businesses and the jobs they create. The proposed tourist accommodation use would see the continued use of the property to support the fishing guide business. Staff are recommending that if approved on this basis, a restrictive covenant would be appropriate to ensure that the tourist accommodation remains as an integrated component of a fish guiding business, and is also only operated if the staff housing is provided as proposed.”

The plans now submitted show a section of the building being removed to create a courtyard separating the existing house / office portion from the building which contained workshop space, storage and guest suites. The plans show new stairs built to service the guest rooms (providing multiple points of egress) and the ground level is now shown with 9 potential future staff accommodation residential units. A vehicle / boat storage space is still shown located at the rear of the building, but overall the majority of the floor area is proposed to be used for accommodation purposes of one sort or another. Adding staff accommodation could be a positive step in providing

needed housing in the community; at the same time, staff note that this proposal essentially removes light industrial uses from the property. The owner notes that the staff accommodation could serve to support other local businesses including light industrial use on nearby properties – including the neighbouring lots which are under the same ownership. On balance, the addition of staff accommodation units could be a positive and pragmatic addition if this building is to be renovated for the purpose of the requested tourist accommodation use. Staff consider that other compatible light industrial uses of the lower floor of the building are also possible and would in the long term be the preferred pattern of land use for the diversity of the local economy.

Staff note that the applicant has submitted letters of support from neighbouring residents (see **Appendix A**).

A number of variances are being requested to reflect the size and location of the existing building. Staff note that the encroachments within zoning setbacks are primarily at the side and rear of the building, and given the location next to Tugwell Field will not likely impact neighbouring properties. The parking setback variance is reasonable if the proposed landscaping is installed in the reduced setback area. Subject to public comment, staff can recommend support for the requested variances for this proposal.

B. Housing Agreement Bylaw:

Ucluelet Housing Agreement Bylaw No. 1249, 2019, would authorize the District to enter into a housing agreement with the property owner. This would be registered on title and govern the use and occupancy of the staff accommodation units (i.e. to ensure that these units can not be used for short-term rentals). The owners are proposing that constructing the staff accommodation units would be started within three years, with all units available for occupancy within 5 years. If this commitment is part of the consideration for adopting the requested zoning bylaw, it can be ensured by covenant as indicated in the October 9, 2018, Council motion.

C. Process:

As noted previously, approval of the requested zoning amendment is the first step toward bringing the building and property uses in compliance with the municipal bylaws and provincial code. The owner has now provided zoning-level drawings showing the location of all intended uses within the building, access, parking and landscaping. Improved landscaping and screening along the Tugwell Field and Forbes Road edges of the property are shown at a conceptual level. Security to ensure completion of the proposed landscaping can be included with the covenant which will be brought forward to Council prior to adoption of the rezoning bylaw.

Should the rezoning bylaw proceed through the steps of a public hearing and receive third reading (often considered approval in principle), the owners could then obtain a building permit and complete the necessary building alterations. Once the building was renovated, certified as safe for its intended use and an Occupancy Certificate were issued, then the bylaw would return to Council for final adoption. At that point, the District could issue a business licence for the tourist accommodation component of the Pacific Rim Fishing Charters and Guest Lodge business.

The existing guest accommodation suites are to remain unoccupied until the municipality issues a Certificate of Occupancy. Therefore, staff again recommend that the owners make alternative arrangements for accommodating their guests for the 2019 season.

Should the requested rezoning not proceed, the building will remain posted with “do not occupy” notices. The owners would then need to decide whether to re-purpose the building for a different use (with the necessary building permits, of course), demolish the building, or leave it vacant.

FINANCIAL IMPACTS:

A building permit fee would be charged based on the construction value. The value of the property would be expected to increase with the proposed improvements, and additional commercial tax assessment would result. Water and sewer fees would be collected based on metered usage. These additional revenues are expected to offset the incremental increase in municipal services and infrastructure.

The Forbes Road light industrial area currently enjoys an exemption from the collection of Development Cost Charges.

OPTIONS REVIEW:

Per the recommended motions listed at the start of this report, staff suggest that Council give initial readings to the attached bylaws and advance the application to a public hearing to gather views on the requested change of use proposed by this application. Alternatively, Council could consider the following options:

2. **THAT** Council defer consideration of the rezoning application for the property at 354 Forbes Road at this time.
3. **THAT** Council reject the rezoning application for the property at 354 Forbes Road at this time, and indicate to the owners that obtaining a certificate of occupancy is required before the unauthorized guest suite addition area of the building can be occupied for any use.

Respectfully submitted: Bruce Greig, Manager of Community Planning
John Towgood, Planner 1
Mark Boysen, Chief Administration Officer

